

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

DAVID LYNN HATFIELD,

Plaintiff,

v.

CIVIL ACTION NO. 5:10-cv-01312

RITA PERKINS,

Defendant.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Plaintiff's November 17, 2010 *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) and *Complaint* (Document 2).

By *Standing Order* (Document 3) entered on November 17, 2010, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On November 6, 2013, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 4) wherein it is recommended that this Court deny the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs*, dismiss the Plaintiff's *Complaint*, and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by November 25, 2013.¹

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the

¹The docket reflects that the *Proposed Findings and Recommendation* mailed to the Plaintiff was returned as undeliverable on November 18, 2013.

factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) be **DENIED**, that the Plaintiff's *Complaint* (Document 2) be **DISMISSED**, and that this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: November 26, 2013



IRENE C. BERGER

UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA